

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

BRENDA PALMER, *et al.*,

Plaintiffs,

v.

DELTA AIRLINES, INC.,

Defendant.

Case No. 2:15-cv-00769-LDG (VCF)

ORDER

Before the Court are Defendant Delta Airline, Inc.'s Motion to Dismiss Second Amended Complaint (#40), and Motion to Enforce Settlement (#57). The Court referred the latter motion to the Magistrate Judge, who has issued a Report and Recommendation (#67) that the motion to enforce settlement be granted. Having considered the papers and pleadings, the parties' Notice of Resolution, the Report and Recommendation and the objection and responses thereto, the Court will adopt the Report and Recommendation, will grant Delta's motion to enforce settlement, and will deny the motion to dismiss as moot.

Plaintiff James Malcolm, who is representing himself in this action, is the only party who has filed an objection to the Report and Recommendation that Delta's motion to enforce settlement be granted. Malcolm does not dispute the Magistrate Judge's report of the relevant facts, and the Court adopts those factual findings. Briefly stated, Malcolm's

1 prior counsel and counsel for the defendant reached an enforceable settlement, and filed a
2 notice with this Court informing the Court that the parties had reached a settlement.

3 In opposing the motion to enforce, and in his objection to the Report and
4 Recommendation, Malcolm argues that he had not actually authorized his prior counsel to
5 enter into a settlement. As correctly noted by the Magistrate Judge, however, prior
6 counsel's actual authority to reach a settlement on behalf of Malcolm is irrelevant in
7 determining whether the Court must enforce, as against Malcolm, the settlement that Delta
8 reached with his prior counsel. On that issue, the only relevant consideration is whether
9 prior counsel represented Malcolm when the settlement was reached. As reported by the
10 Magistrate Judge, and confirmed by this Court's docket, prior counsel did represent
11 Malcolm at that time. Accordingly, the Court must enforce the settlement.

12 Pursuant to the Notice of Resolution filed by the parties, the parties reached a
13 settlement which obviated the need for this Court to consider Delta's motion to dismiss the
14 Second Amended Complaint. The parties further indicated they would be filing a
15 Stipulation and Order for Dismissal of this matter. Accordingly, the Court will deny the
16 motion to dismiss, without prejudice, as moot.

17 Accordingly,

18 THE COURT **ADOPTS** the Report and Recommendation (#67);

19 THE COURT **ORDERS** that Defendant Delta Airline, Inc.'s Motion to Enforce
20 Settlement (#57) is GRANTED;

21 THE COURT FURTHER **ORDERS** that Defendant Delta Airline, Inc.'s Motion to
22 Dismiss Second Amended Complaint (#40) is DENIED, without prejudice, as MOOT.

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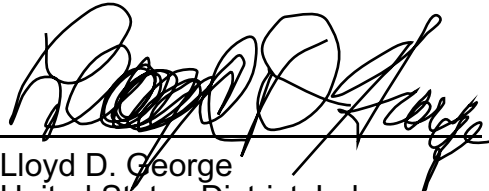
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1 THE COURT FURTHER **ORDERS** that, in light of the noticed Resolution of this
2 matter, the Parties shall file a Stipulation and Order for Dismissal not later than 30 days
3 from the entry of this Order.

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5 DATED this 13 day of December, 2016.

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8 Lloyd D. George
9 United States District Judge
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